

REMARKS

Entry of the foregoing, re-examination and reconsideration of the subject matter identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112, and in light of the remarks which follow, are respectfully requested.

The claims have been amended in response to §112 issues raised in the Office Action. New claim 49 has been added directed to the elected allowable species. Claims 12-19, 22, 23, 30, 31 and 38 are withdrawn from consideration on the merits.

The objection to claim 1 set forth in paragraph (3) of the Office Action has been obviated by deleting the bracketed words inadvertently left in when the last amendment was presented.

In response to paragraph (4) of the Office Action, Applicants are submitting herewith two sheets of amended Figures 1 and 2. The Figures have been amended to comply with the requirements set forth in the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached to the Office Action mailed February 14, 2003 (Paper No. 7).

Claims 1-11, 20, 21, 24-29, 32-37 and 39-48 were rejected under 35 U.S.C. §112, second paragraph, for the reasons given in paragraphs (7), (8) and (9) of the Office Action. Reconsideration of this rejection is requested in view of the above amendments and for at least the following reasons.

The objections set forth in paragraphs (7) a-e, (8) and (9) of the Office Action have been obviated by the current amendments. In essence, Applicants have accepted the terminology suggested by Examiner Wilson. With respect to the issue raised in paragraph (7)f, Applicants submit the following comments.

The specification apprises those of ordinary skill of the scope and meaning of the terms high slope, medium slope and low slope. Note, for example, the discussions on pages 8 and 14. High, medium and low are obviously relative terms which can be measured by determining the water reduction of the resultant polymers. Claim 1 has been amended by deleting the words high, medium and low and adding a numerical value for the water reduction which characterizes the polymers obtained in Areas I, II and III. Support for these numerical values may be found on page 8, lines 6-9 of the specification.

In view of the above amendments and remarks, withdrawal of the §112 rejection is earnestly solicited.

Claims 1-11, 20, 21, 24-29, 32-37 and 39-48 were rejected under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,388,038 to Hirata et al. The Examiner's rationale is expressed in paragraph (14) of the Office Action.

As acknowledged in the Office Action, the polymers of Hirata et al. '038 are prepared by a different process than that of the presently claimed polymers. Thus, the polymers of the reference are obtained by copolymerization of unsaturated acids and esters. The polymers defined by the present claims, however, are prepared by a condensation reaction (esterification/amideification) involving a polymeric (meth)acrylic acid (polymer analogous reaction). Those of ordinary skill would readily understand that the kinetics of the respective reactions, i.e., addition polymerization vs. condensation reaction with a polymeric reactant are completely different. The different reaction mechanisms and kinetics of reaction necessarily result in completely different products.

Accordingly, not only are the copolymers disclosed in Hirata et al. '038 not an anticipation of the polymers presently claimed, but the respective products are completely different by virtue of their different methods of preparation and are not obvious over one another. In view of these distinctions, the §102(e) and §103(a) rejections based on Hirata et al. '038 should be withdrawn.

Claims 1-11, 20, 21, 24-29, 32-37 and 39-48 were rejected under 35 U.S.C. §102 as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over EP 0 753 488 for the reasons given in paragraph (17) of the Office Action. Reconsideration of these rejections is respectfully requested for at least the reasons which follow.

The polymers disclosed in EP '488 also are prepared by addition copolymerization of unsaturated monomeric acids and esters. Thus, the method of preparation is completely different than the method employed by Applicants. The kinetics of an addition polymerization involving monomeric compounds is so different from the kinetics of a condensation reaction involving a poly(meth)acrylic acid that those of ordinary skill would reasonably conclude that the respective products are different and possess different properties.

It is clear from the above that the copolymers disclosed in EP '488 are not anticipatory of the presently claimed polymers nor do they render obvious the claimed products. Accordingly, the §102 and §103(a) rejections based on this document should be withdrawn and such action is respectfully requested.


From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (703) 838-6683 at his earliest convenience.

Respectfully submitted,

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